



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

Vol. 24

January 30, 2007

No. 04

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HOUSE WEEK IN REVIEW

The House of Representatives gave second reading approval to **H.3052**, a bill that **RATIFIES THE EMINENT DOMAIN CONSTITUTIONAL AMENDMENT**. Eminent domain is the power of a governmental entity to take private real estate for public use, with or without the permission of the owner. This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. The legislation provides that private property must not be condemned by eminent domain, unless the condemnation is for public use. The legislation also revises the manner in which blighted property may be condemned to protect the health and safety of the community.

The House gave second reading approval to **H.3063**, a bill providing for the **RATIFICATION OF THE MARRIAGE CONSTITUTIONAL AMENDMENT**. This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. This legislation provides that marriage between one man and one woman is the only lawful domestic union that is valid or recognized in South Carolina. The legislation further provides that the State or its political subdivisions may not create any other domestic union and may not recognize a domestic union created by another jurisdiction.

The House gave second reading approval to **H.3226**, a bill pertaining to **RECUSAL REQUIREMENTS**. A state, county, and municipal public official, public member, and public employee, including a person serving on an agency, unit, or subunit of a governmental entity involved in a conflict of interest regarding representation of another person must comply with specified recusal requirements. A governmental entity includes, but is not limited to, a planning board or zoning commission. A person involved in a conflict of interest regarding representation of another person cannot be forced to vacate his seat or position if the specified recusal requirements have been met. Notwithstanding another provision of law, a governmental entity shall not prohibit a state, county, or municipal public official, public member, or public employee, including a person serving on an agency, unit, or subunit of a governmental entity from service in office or employment based solely on race, color, national origin, religion, sex, disability, or legal occupation.

The House approved and sent to the Senate Joint Resolution **H.3335** which provides that, notwithstanding a provision of the 2006 general appropriations act, for fiscal year 2006-2007, all interest accruing to the **HAZARDOUS WASTE CONTINGENCY FUND** under the pertinent statute must be credited to the fund and authorized for expenditure by the Department of Health and Environmental Control to defray costs of governmental response actions at uncontrolled hazardous waste sites and for the purpose of response actions incidental to the transportation of hazardous materials.

The House approved and sent to the Senate Joint Resolution **H.3252** which extends for thirty days the deadline for timely **CERTIFICATION OF A FAVORABLE VOTE IN A REFERENDUM ON THE IMPOSITION OF A LOCAL OPTION SALES AND USE TAX** held at the time of the general election of 2006.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full Judiciary Committee had its first meeting on Tuesday, January 23, 2007.

The Judiciary Committee gave a favorable report to **H.3052**, a bill that **RATIFIES THE EMINENT DOMAIN CONSTITUTIONAL AMENDMENT**. Eminent domain is the power of a governmental entity to take private real estate for public use, with or without the permission of the owner. This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. The legislation provides that private property must not be condemned by eminent domain, unless the condemnation is for public use. The legislation also revises the manner in which blighted property may be condemned to protect the health and safety of the community.

H.3063, pertaining to **RATIFICATION OF THE MARRIAGE CONSTITUTIONAL AMENDMENT**, received a favorable report from the full committee. This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. This legislation provides that marriage between one man and one woman is the only lawful domestic union that is valid or recognized in South Carolina. The legislation further provides that the State or its political subdivisions may not create any other domestic union and may not recognize a domestic union created by another jurisdiction.

The full committee gave a favorable report to **H.3112**. This bill revises **VOTING PRECINCTS IN BEAUFORT COUNTY**. It also includes a provision authorizing the Beaufort County Board of Elections and Registration, with the approval of a majority of the Beaufort County Legislative Delegation, to determine the polling places for the precincts in Beaufort County.

H.3226 received a favorable with amendment report from the Judiciary Committee. A state, county, and municipal public official, public member, and public employee, including a person serving on an agency, unit, or subunit of a governmental entity involved in a conflict of interest regarding representation of another person must comply with specified **RECUSAL REQUIREMENTS**. A governmental entity includes, but is not

limited to, a planning board or zoning commission. A person involved in a conflict of interest regarding representation of another person can not be forced to vacate his seat or position if the specified recusal requirements have been met. Notwithstanding another provision of law, a governmental entity shall not prohibit a state, county, or municipal public official, public member, or public employee, including a person serving on an agency, unit, or subunit of a governmental entity from service in office or employment based solely on race, color, national origin, religion, sex, disability, or legal occupation.

The Judiciary Committee recommitted **H.3176** to the General Laws Subcommittee. The bill relates to the **LIMITATIONS ON OFFERING DISCOUNT PRICES FOR THE SALE OF ALCOHOLIC LIQUORS FOR ON-PREMISES CONSUMPTION AT CERTAIN TIMES.**

LABOR, COMMERCE AND INDUSTRY

The full committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3321 FLOUNDER Rep. Hayes

Current law allows for a catch limit of twenty flounder per day, and the required size limit for flounder is twelve inches total length. This bill reduces the catch limit to fifteen flounder per day, and increases the required size limit for flounder to fourteen inches total length.

H.3351 THE MITIGATION TRUST FUND ADMINISTERED BY THE BOARD OF THE DEPARTMENT OF NATURAL RESOURCES Rep. M.A. Pitts

This bill provides that mitigation projects may involve any natural resources within the State which have been, are, or reasonably may be subject to harm, damage, or diminution in value associated with development, growth, injury due to intentional or accidental occurrences, acts of God, or any other threat to natural resources. The bill specifically provides that the Mitigation Trust Fund must not be used for the establishment and operation of a commercial mitigation bank.

This bill further provides that the trustees of the Mitigation Trust Fund are authorized to:

- operate a program in order to implement the purposes of this section;
- develop additional guidelines and prescribe procedures;
- apply for and receive additional funding for the trust fund from federal, private, and other sources;
- receive charitable contributions and donations to the trust fund, to be used as provided for in this section;
- receive contributions to the trust fund in satisfaction of any public or private obligation for environmental mitigation, whether the obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding; and
- award grants to advance the purposes of certain not-for-profit charitable corporations or trusts.

EDUCATION AND PUBLIC WORKS

H.3320 DUPLICATE PERSONALIZED LICENSE PLATES ISSUED TO A SOUTH

CAROLINA MEMBER OF THE UNITED STATES CONGRESS OR A MEMBER OF THE SOUTH CAROLINA GENERAL ASSEMBLY
Rep. Umphlett

Current law restricts the number of duplicate license plates that may be issued to a South Carolina Member of the United States Congress or a member of the South Carolina General Assembly. This bill provides that duplicate personalized license plates issued to a South Carolina Member of the United States Congress or a Member of the South Carolina General Assembly must bear the same numerals followed by a different letter of the alphabet.

H.3323 DEPARTMENT OF MOTOR VEHICLES' ELECTRONICALLY FILED LIEN INFORMATION Rep. Harrison

If there are one or more liens or encumbrances on a motor vehicle or mobile home, this bill allows the Department of Motor Vehicles to electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens, and lien satisfactions. When electronic transmission of liens and lien satisfactions is used, this bill provides that a certificate of title may be issued when the last lien is satisfied and a clear certificate is issued. When a motor vehicle or mobile home is subject to an electronic lien, its certificate of title is physically held by the lienholder. This bill provides that a certified copy of an electronic record of a lien is admissible in court as evidence of the existence of a lien, and a transaction fee may be collected by commercial parties and lenders who transmit or retrieve data.

H.3340 SCHOOL BUSES Rep. Duncan

This bill provides that state-owned school buses must be parked in a centralized location overnight and during the school day. If requested, a waiver to this requirement must be granted.

JUDICIARY

S.154 RATIFICATION OF THE MARRIAGE CONSTITUTIONAL AMENDMENT **Sen. Hawkins**

This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. This legislation provides that marriage between one man and one woman is the only lawful domestic union that is valid or recognized in South Carolina. The legislation further provides that the State or its political subdivisions may not create any other domestic union and may not recognize a domestic union created by another jurisdiction.

S.155 RATIFICATION OF THE EMINENT DOMAIN CONSTITUTIONAL AMENDMENT Sen. Campsen

Eminent domain is the power of a governmental entity to take private real estate for public use, with or without the permission of the owner. This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. The legislation provides that private

property must not be condemned by eminent domain, unless the condemnation is for public use. The legislation also revises the manner in which blighted property may be condemned to protect the health and safety of the community.

**S.156 RATIFICATION OF THE CONSTITUTIONAL AMENDMENT
PERTAINING TO SESSIONS OF THE GENERAL ASSEMBLY
Sen. Campsen**

This proposed constitutional amendment received a favorable vote during the 2006 general election, and this legislation ratifies the constitutional amendment. The joint resolution provides that after the General Assembly convenes on the second Tuesday in January of each year that the Senate and the House of Representatives may recede for a period not to exceed 30 calendar days, unless extended by a two-thirds vote. The joint resolution further provides that each body may provide for meetings during the legislative session, as it considers appropriate. The joint resolution also permits organizational sessions of the Senate. The joint resolution deletes the section of the State Constitution, which provides that neither house, during the session of the General Assembly, shall without the consent of the other adjourn for more than three days, nor adjourn to meet in another place.

**H.3324 CRITERIA FOR THE TRANSPORT OF PERSONS IN THE CUSTODY
OF THE DEPARTMENT OF CORRECTIONS Rep. Harrison**

This bill provides that a person in the custody of the Department of Corrections may not be transported except as required by medical necessity or for a specific law enforcement, judicial or other purpose as required or identified by the department. The department must conduct the transport. However, when the transport is the result of a request of a local or state law enforcement agency, the agency may transport the person if approved by the department.

**H.3325 REQUIREMENTS FOR OBTAINING A WARRANT FOR FRAUDULENT
CHECKS AND OTHER ITEMS Rep. Harrison**

This bill requires that the fraudulent item be posted on its face with the date it is received by the person or business seeking a warrant. The bill further provides that a warrant be issued on the fraudulent item within 180 days of the receipt date, not counting the time it is in the possession of the magistrate pending issuance of the warrant.

H.3327 ANIMAL CONTROL OFFICER Rep. Harrison

This bill provides that an animal control officer has the same powers and duties as a litter control officer.

**H.3329 "FETAL PAIN AWARENESS AND PREVENTION ACT"
Rep. Davenport**

This bill requires a physician or other health care provider to provide to a woman before she undergoes an abortion certain information concerning the development of the fetus and the fetus's ability to experience pain. The bill requires that medication be available that would minimize or alleviate pain to the fetus. The bill further requires the woman to sign a form that she has received this information, and the form must indicate whether she requested or rejected pain medication for the fetus. Exceptions are provided for in the case of a medical emergency, and penalties are provided for violations.

**H.3330 PROFESSIONAL BONDSMAN'S MAINTENANCE OF SECURITY
DEPOSITS WITH THE CLERK OF COURT Rep. Rutherford**

This bill changes the amount a professional bondsman shall maintain as a deposit with a clerk of court and provides that a professional bondsman presently licensed is not affected by the increased minimum deposits.

H.3331 LOBBYISTS Rep. Kirsh

This bill prohibits the use of public funds to employ or contract with a person whose activities include those related to lobbying. The bill outlines certain exceptions.

H.3332 APPOINTMENT OF ATTORNEYS AS ARBITRATORS OF CERTAIN PROPERTY DAMAGE LIABILITY CLAIMS Rep. Talley

Relating to the appointment of attorneys as arbitrators of certain property damage liability claims arising from motor vehicle collisions or accidents, this bill provides that attorneys appointed under this section may only determine an award of actual damages, punitive damages, or both. The bill further provides that the court of common pleas or an inferior court having concurrent jurisdiction shall retain exclusive jurisdiction to make any other determination.

H.3341 PROBATE JUDGES Rep. Chalk

Relating to the requirement that the governing body of each county provide the judge of probate with the necessary office equipment, books, office space, and personnel for the operation of the court, this bill provides that these judges have absolute control over these matters, including use of budgeted funds, employee classifications, compensation, and promotions.

H.3343 QUALIFICATIONS FOR REGISTRATION TO VOTE Rep. Haskins

This bill provides that proof of citizenship when registering to vote, includes: a United States passport, a birth certificate, United States naturalization documentation, or any document or method of proof of citizenship provided for in federal law. Persons registered to vote as of July 1, 2007, are exempt from these provisions, and proof of citizenship is not required when the elector moves or changes his or her name. This bill requires applications for motor vehicle licenses and renewals serving as an application for voter registration to state on the voter registration portion of the application the documentation required for proof of citizenship, which must accompany the application.

H.3344 IGNITION BREATH ANALYZERS Rep. Duncan

This bill provides that a person convicted of a first offense violation of certain provisions that make it illegal to operate a motor vehicle while under the influence of alcohol or another substance must be ordered to equip each motor vehicle that he owns with an ignition breath analyzer at his own expense. The bill further provides a penalty for a violation of this provision.

H.3346 ACCESS TO CEMETERIES ON PRIVATE PROPERTY Rep. R. Brown

This bill provides that owners of property on which a cemetery or graves are located must allow ingress and egress to the cemetery by families of persons buried there, plot owners, and persons conducting genealogy. The bill authorizes the property owner to designate times and frequency of access. The property owner is immune from liability in any action arising out of granting such access. The bill also establishes a cause of action for denial of reasonable access. These provisions do not apply to a deed that creates or reserves a cemetery on private property.

H.3347 "SOUTH CAROLINA TEACHER PROTECTION ACT OF 2007"

Rep. Stavrinakis

This bill allows a teacher to bring a civil action against a student who commits a criminal offense against the teacher, if the offense occurs on school grounds or at a school-related event, or if the offense is directly related to the teacher's professional responsibilities. The bill further provides that a teacher is not liable in a civil action to a student or to a party acting in the interest of the student for an act or omission by the teacher while the teacher is acting on behalf of the school.

Relating to the offense of assault and battery on school personnel by a student, this bill: revises definitions, creates a three-tiered assault and battery sentencing scheme, and mandates certain benefits be retained by the injured school official whose injury prevents his return.

H.3352 MOTOR VEHICLE GLASS REPAIR Rep. Harrison

This bill provides that it is an unlawful trade practice for a motor vehicle glass repair business actively engaged in the repair or replacement of motor vehicle glass, or a person or entity with a ten percent or more ownership interest in that business, and acting as a third party administrator of insurance claims made pursuant to insurance coverage for motor vehicle glass repair to: refer business to itself; or use consumer information obtained in the process of acting in that dual capacity to solicit motor vehicle glass repair business.

H.3355 PREREQUISITES FOR THE PERFORMANCE OF AN ABORTION

Rep. Delleney

This bill requires that the physician who is to perform the abortion must verify the probable gestational age of the embryo or fetus by using an obstetric ultrasound. The images used to verify the probable gestational age must be reviewed with the woman seeking the abortion, and the woman seeking the abortion must certify in writing before the abortion is performed that she has reviewed the ultrasound images.

H.3358 OFFICE HOURS OF THE STATE TREASURER AND OTHER STATE AGENCIES Rep. Kirsh

This bill repeals code sections which mandate the office hours of the State Treasurer and other state agencies.

H.3359 MARRIAGE DECLARED VOID AB INITIO BY REASON OF FRAUD Rep. Gullick

This bill provides that a marriage declared void ab initio by reason of fraud does not relieve the party committing the fraud of the requirements of equitable distribution or the duty of spousal support or child support. A child born during the relationship is presumed to be the child of the parties for purposes of child support.

H.3360 LOBBYISTS Rep. Merrill

This bill prohibits the use of public funds to employ or contract with a person whose activities include those related to lobbying. The bill outlines certain exceptions.

H.3363 "THE GAMBLING VOYAGE ACT" Rep. Anderson

This bill makes it unlawful to conduct gambling on certain voyages. Penalties are provided for violations. Additionally, the bill repeals the "Gambling Cruise Act."

LABOR, COMMERCE AND INDUSTRY

H.3356 VIOLATIONS OF LICENSURE AND REGULATION PROVISIONS FOR CONTRACTORS Rep. G. M. Smith

This bill provides that the Department of Labor, Licensing, and Regulation may not assess costs of investigation and prosecution of a case against a person found in violation of the provisions for the licensure and regulation of contractors. The legislation revises the prohibition against engaging in construction in a name other than the exact name that appears on a contractor's license and prohibiting enforcement of a contract if it is entered into in a name other than the one that appears on the license, so as to also prohibit engaging in construction under a license number other than that which appears on the license and to provide that a construction contract may not be enforced if the contract does not contain the license number that appears on the license.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3334 HAIR BRAIDING Rep. R. Brown

Relating to the definition of terms used in the licensure and regulation of barbers, this bill provides that the term "hair braiding" includes the use of hair extensions.

H.3362 DEATH CERTIFICATES Rep. Parks

This bill requires an embalmer or funeral director who files a death certificate to provide his embalmer or funeral home director license number on the death certificate. The bill provides that the State Registrar must include on death certificate forms a space where an embalmer or funeral director may provide his license number when filing a death certificate.

WAYS AND MEANS

H.3326 REIMBURSEMENT FOR COST OF TRAINING LAW ENFORCEMENT OFFICERS Rep. Harrison

This bill provides a procedure whereby a governmental entity that has assumed the cost of training a law enforcement officer may be reimbursed for these costs by a governmental entity that subsequently hires the law enforcement officer.

H.3328 PROPOSED STATE CONSTITUTIONAL AMENDMENT RESTRICTING SCHOOL DISTRICT DEBT INCURRED FOR BUILDING PROJECTS Rep. Davenport

This joint resolution proposes to amend the provisions of the South Carolina Constitution relating to the bonded indebtedness of school districts so as to provide that, in addition to the other requirements, a school district may not incur general obligation debt for the acquisition of new schools, the renovation of existing schools, or additions to existing schools unless the general obligation debt is authorized by a majority vote of the qualified electors of the school district in a referendum.

S.152 RATIFICATION OF STATE CONSTITUTIONAL AMENDMENTS ON INVESTMENT OF STATE RETIREMENT SYSTEMS' FUNDS Sen. Alexander

This bill ratifies amendments to the South Carolina Constitution approved by voters at the general election that eliminate the State Retirement Systems Investment Panel and remove restrictions on the investments allowed for funds of the various state-operated retirement systems that limit such investments to American-based corporations registered on an American national exchange.

S.153 RATIFICATION OF STATE CONSTITUTIONAL AMENDMENTS ON PROPERTY TAXES Sen. McConnell

This bill ratifies amendments to the South Carolina Constitution approved by voters at the general election that authorize the General Assembly to determine the methods of valuation and assessment for taxation of real property.

H.3348 "SOUTH CAROLINA CLASSROOM PRIORITY ACT" Rep. Stavrinakis

This bill enacts the "South Carolina Classroom Priority Act", so as to provide that at least sixty-five percent of the education operational expenditures of each school district must be used for classroom instructional expenditures. The legislation requires each school district to submit its proposed budget to the State Superintendent of Education with the actual percentage of its education operational expenditures used for classroom instruction. Under the legislation, the governing body in a county may amend the fiscal year budget of a school district within the county upon a finding by the State Superintendent of Education that a school district has demonstrated blatant disregard for these requirements. The legislation makes provisions for a waiver. The Superintendent of Education shall develop model plans and the State Board of Education shall promulgate regulations to aid in the implementation of these requirements.

H.3353 INCOME TAX CREDIT FOR CONTRIBUTIONS TO PUBLIC SCHOOLS FOR INFRASTRUCTURE OR TECHNOLOGY Rep. J. R. Smith

This bill provides for a nonrefundable state income tax credit to a taxpayer who makes a contribution to a public school to be used for the construction of a building or other

school infrastructure or for computers and other technological equipment used for school purposes. The legislation provides that the credit is equal to thirty-three percent of the contribution but is not to exceed fifteen thousand dollars and establishes other limitations.

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